

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1945 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

S.I.V. INDUSTRIES LTD.

Versus

MICRO PRECISION PUMPS & GEARS LTD.

Appearance:

SINGHI & BUCH ASSO. for Petitioner
MR PR THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 25/07/2000

ORAL JUDGEMENT

This Civil Revision application has been preferred against the order dated 07/11/1996 passed by the 3rd Joint Civil Judge (S.D.), Baroda allowing the application Ex.10 of the decree holder as defendant is entitled to withdraw the amount deposited by the respondent in the court with condition that the opponent will have to return the said amount, while the court ordered to the opponent to return back the said amount in the court and the petitioner was also directed to give surety for the amount of Rs.13 Lacs with solvent surety and for that purpose the opponent-petitioner was directed to produce solvency certificate within 30 (thirty) days from the date of the order and after perusing that certificate, the opponent-petitioner was at liberty to withdraw the said amount as per the condition. The petitioner filed a Civil Suit No.984 of 1994 for the recovery of Rs.9,39,900/- for the goods sold to the respondent. On 03/05/1995, the trial court passed the exparte decree for the entire amount with the interest at the rate of 18% in favour of the petitioner. The respondent moved an application under Order-9, Rule-13 of Civil Procedure Code before the Civil Judge (S.D.), Baroda for setting aside the decree and for restoring the suit to its original number. On 22nd July, 1996, the trial court passed the order staying the operation of the exparte decree with the condition that the respondent will deposit the amount of Rs.6,30,181/-. Against that order, the respondent has been preferred this Civil Revision Application No.1945 of 1996. The petitioner moved an application during the pendency of the Misc.Civil Application No.173 of 1996 for withdrawal of the amount deposited by the respondent. The trial court passed an order dated 07/11/1996 for permitting the petitioner to withdraw the amount. On furnishing adequate surety as stated in the impugned order, that order was challenged in this court in Civil Revision Application. This court stayed the implementation of the order dated 07/11/1996 and the trial court was directed to invest the amount in fixed deposit with any of the Nationalised Bank for a period of one year. It is also made clear that if the proceedings pending before the trial court are terminated before one year. It would be opened for the trial court to pass appropriate order for withdrawal the amount at the request of the parties. The hearing of the Misc. Civil Application No.173 of 1996 was directed to expedite and the order was to dispose of on or before 30th April, 1997. The learned counsel for the petitioner submits that this court had directed to

request the trial court for withdrawal of the amount after the termination of the proceedings before the trial court. The trial court has rejected the application i.e. Misc. Civil Application No.173 of 1996 vide order dated 10th March, 2000. Hence, petitioner is also entitled to withdraw the amount deposited by the respondent and he moved that application before the court concerned and this revision application stands to be rejected, in view of the order dated 21st January, 1997 passed by this court, due to the termination of the proceedings before the trial court. As the application i.e. Misc. Civil Application No.173 of 1996 moved under Order-9, Rule-13 of the Civil Procedure Code has already been rejected by the trial court on 10th March, 2000. As such, the proceedings pending before the trial court stands terminated, no other proceedings are pending before the trial court at this stage. The learned counsel for the petitioner also made a statement before this court, no revision application has been filed against the order dated 10th March, 2000 passed by the trial court against the rejection of the Misc.Civil Application No.173 of 1996 and he has also filed a caveat in that respect. No proceedings are pending before the trial court, hence this revision application is dismissed as infructuous. Rule is discharged with no order as to costs.

Date : 25/07/2000. (Kundan Singh,J)

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